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**OWEN, WICKERSHAM & ERICKSON, P.C.**

*Attorneys For Plaintiffs*

455 Market Street, 19th Floor

San Francisco, CA 94105

(415) 882-3200

Noel M. Cook, Esq.

Linda Joy Kattwinkel, Esq.

**COWAN, LIEBOWITZ & LATMAN, P.C.**

*Local Counsel in New York For Plaintiffs*

1133 Avenue of the Americas

New York, NY 10036-6799

(212) 790-9200

Joshua Paul, Esq. (JP-4079)

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U.S. DISTRICT COURT  
E.D. NEW YORK

**LAW OFFICES OF RAYMOND WONG**

*Attorneys For Defendants*

401 Broadway, Penthouse Suite

New York, NY 10013

(212) 431-4999

John Smargiassi, Esq. (JS-3041)

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

----- X  
SANRIO COMPANY, LTD. and SANRIO, INC.,

Plaintiffs,

-against-

ANN ARTIC, INC., TRILLION ENTERPRISES, INC.,  
WHILMER ENTERPRISES, INC., NGA TING YUEN  
a/k/a "Ada Yuen", NGA WUN YUEN a/k/a "Anna Yuen"  
and DOES 1-10,

Defendants.  
----- X

Civil Action No.  
98 CV 1858 (CPS)

**FINAL  
JUDGMENT  
ON CONSENT**

#41

WHEREAS, on March 11, 1998 Plaintiffs Sanrio Company, Ltd. and Sanrio, Inc. (collectively, "Sanrio") instituted suit against Defendants Ann Artic, Inc., Trillion Enterprises, Inc., Whilmer Enterprises, Inc., Nga Ting Yuen (also known as "Ada Yuen"), and Nga Wun Yuen (also known as "Anna Yuen") for copyright infringement in violation of 17 U.S.C. § 501; trademark infringement in violation of 15 U.S.C. § 1114; false designations of origins in violation of 15 U.S.C. § 1125; and unfair competition under the law of the State of New York;

WHEREAS, on March 27, 1998 the Court issued a temporary restraining order enjoining Defendants from any further importation, sale and/or distribution of products bearing counterfeit versions of Plaintiffs' registered trademarks and Plaintiffs' copyrights;

WHEREAS, by Memorandum Decision and Order filed with the Clerk's Office on May 13, 1998, the Court granted Plaintiffs' motion for a preliminary injunction;

WHEREAS, with the assistance of United States Magistrate Judge Marilyn D. Go, the parties have concluded a settlement resolving Plaintiffs' claims in this civil action;

WHEREAS, the parties wish to resolve this civil action through the entry of the following Final Judgment on Consent;

NOW, THEREFORE, it is hereby **ORDERED, ADJUDGED and DECREED** as follows:

## **FINDINGS OF FACT**

### **Plaintiffs' Copyright and Trademark Rights**

1. Plaintiff Sanrio Company, Ltd. ("Sanrio Company") is a Japanese corporation and maintains its principal place of business at 1-6-1 Osaki, Shinagawa ku, Tokyo 141, Japan. Plaintiff Sanrio, Inc. is a California corporation and maintains its principal place of business at 570 Eccles Avenue, South San Francisco, California 94080.

2. Sanrio Company has created various internationally famous character designs for children and young adults (collectively, the "Sanrio Characters"). The Sanrio Characters include, among others:

HELLO KITTY, a cat;  
MY MELODY, a bunny;  
LITTLE TWIN STARS, a girl and boy;  
POCHACCO, a puppy;  
KEROKEROKEROPPI a.k.a. KEROPPI, a frog;  
AHIRU NO PEKKLE a.k.a. PEKKLE, a duck;  
OSARU NO MONKICHI a.k.a. MONKICHI, a monkey;  
BAD BADTZ MARU a.k.a. BADTZ MARU, a penguin and seal;  
MINNA NO TABO, a boy, often with companion animals;  
CHEERY CHUMS, a bunny and other animals; and  
BOYS a.k.a. THE RUNABOUTS, a group of vehicles, including a police car.

Photocopies of each of the Sanrio Characters are included within Exhibit 1.

3. Since 1960, Sanrio Company has manufactured, distributed and sold throughout the world products featuring one or more of the Sanrio Characters for use by children and young adults. Sanrio, Inc. is Sanrio Company's exclusive distributor in the United States.

4. Sanrio owns United States copyright registrations covering all of the Sanrio Characters. Sanrio's copyright registrations (collectively, "Sanrio's Registered Copyrights") include:

- (a) Registrations for various Sanrio catalogs depicting the Sanrio Characters and character merchandise, including Registration Numbers TX 921-112 (1982 catalog); TX 2-354-822 (1988 catalog); TX 3-809-087 (1991 catalog); TX 3-769-888 (1993 catalog); TX 3-769-887 (1994 catalog); and VA 739-889 (1995-96 catalog).
- (b) Registrations for artwork depicting the HELLO KITTY character, including Registration Numbers VA 52 941; VA 87-058; VA 130-420; and VA 246-420.
- (c) Registrations for artwork depicting the MY MELODY character design, including Registration Numbers VA 130-419; VA 148-778; and VA 149-563.
- (d) Registrations for artwork depicting the LITTLE TWIN STARS characters designs, including: Registration Nos.: VA 87-055; VA 130-422; and VA 246-421.
- (e) Registration Number VA 636-580 for artwork depicting the POCHACCO character design;
- (f) Registration Number VA 840-495 for artwork depicting the OSARU NO MONKICHI a.k.a. MONKICHI character design;
- (g) Registrations for artwork depicting the KEROKEROKEROPPI a.k.a. KEROPPI character design, including Registrations Numbers VA 636-579 and VA 707-212;
- (h) Registration Number VA 636-582 for artwork depicting the AHIRU NO PEKKLE a.k.a. PEKKLE character design;
- (i) Registration Number VA 811-440 for artwork depicting the BAD BADTZ MARU a.k.a. BADTZ MARU character designs; and
- (j) Registration Number VA 854-882 for artwork depicting the MINNA NO TABO characters design.

5. Sanrio Company owns all trademark rights in the United States to the SANRIO trademark, and to the names and designs of the Sanrio Characters. Sanrio Company owns

the following trademark registrations on the Principal Register of the United States Patent and Trademark Office (collectively, "Sanrio's Registered Trademarks"):

- (a) Reg. No. 1,289,682 (SANRIO & Design);
- (b) Reg. Nos. 1,200,083, 1,277,721 and 1,370,105 (design trademark depicting the head of the HELLO KITTY character);
- (c) Reg. Nos. 1,215,436, 1,279,486, and 1,391,550 (word trademark HELLO KITTY);
- (d) Reg. Nos. 1,210,192 and 1,305,637 (MY MELODY);
- (e) Reg. Nos. 1,192,946 and 1,341,864 (LITTLE TWIN STARS);
- (f) Reg. Nos. 1,985,358 and 2,000,913 (POCHACCO);
- (g) Reg. Nos. 1,985,359 and 2,106,522 (KEROPPI); 2,106,521 (PEKKLE).

6. In addition to owning the foregoing federal trademark registrations, Sanrio Company also owns all common law rights (including trade dress rights) to all of the Sanrio character names and designs.

7. Authorized merchandise bearing Plaintiffs' Sanrio Characters is very popular among consumers in the United States. Plaintiffs distribute genuine merchandise bearing Sanrio Characters through approximately 3,000 authorized dealers, 110 licensed Sanrio boutiques and 40 corporate theme stores in the United States.

8. Plaintiffs' Sanrio Character products are frequently counterfeited, with counterfeit goods sold throughout the New York area. Approximately 1,000,000 counterfeit Sanrio goods are sold in the United States alone each year.

### **Defendants' Willful Infringement of Plaintiffs' Trademarks and Copyrights**

9. Defendants Nga Ting Yuen (also known as "Ada Yuen") and Nga Wun Yuen (also known as "Anna Yuen") are sisters. They reside at 8320 15th Avenue, Brooklyn, New York.

10. Defendants Ann Artic, Inc., Trillion Enterprises Inc., and Whilmer Enterprises, Inc. are New York corporations or other forms of business enterprises formed and controlled by Defendants Nga Ting Yuen a/k/a Ada Yuen and/or Nga Wun Yuen a/k/a Anna Yuen.

11. Unless otherwise specified, the term "Defendants" refers herein to all named Defendants.

12. During March 1996, Defendant Nga Ting Yuen a/k/a Ada Yuen placed orders for merchandise (hereafter, the "Counterfeit Merchandise") bearing counterfeit versions of Sanrio's Registered Copyrights and Sanrio's Registered Trademarks with various suppliers in Hong Kong and Kowloon (collectively, "Defendants' Suppliers"). The Counterfeit Merchandise features reproductions of the names and images of HELLO KITTY, MY MELODY, LITTLE TWIN STARS, POCHACCO, KEROKEROKEROPPI, AHIRU NO PEKKLE, MONKICHI, BADTZ MARU and MINNA NO TABO; and the images of the CHEERY CHUMS bunny and THE RUNABOUTS police car.

13. Defendants' Suppliers included the following entities: CENTRAL IMITATION JEWELLERY CO., Ground Fl., 23 Wing Wo Street, Central, Hong Kong; HOI SHUEN IMITATION JEWELLERY CO., G/FL. Shop 1 Chun Wo Commercial Center, 23-29 Wing Wo Street, Sheung Wan, Hong Kong; LUEN FAT TRADING CO., M/Fl., 226 Yu Chau

Street Sham Shui Po, Kowloon; SAI KEE RETAILORS & WHOLESALE CO., Unit 12, G/F, Pei Ho Building, No. 115-117, Fuk Wah Street, Kowloon; PATTERN CO. IMITATION JEWELLERY WHOLESALE; Shop A, F/G., No. 1, Wing Lok Street, Sheung Wan, Hong Kong; and HIP HOP UMBRELLA, Shop 11, G/F., Pei Ho Building, No. 115-117, Fuk Wah Street, Kowloon.

14. Defendants resold the Counterfeit Merchandise to retailers throughout the United States during 1996 and 1997. Throughout the period, Defendants Nga Ting Yuen a/k/a Ada Yuen and Nga Wun Yuen a/k/a Anna Yuen knew that the Counterfeit Merchandise was not genuine and was not produced by or on behalf of Plaintiffs. Said defendants knew they were distributing counterfeit goods.

15. In early January 1997, Defendants received a claim letter dated December 30, 1996 from Plaintiffs' lawyers. Among other things, the claim letter notified Defendants of Plaintiffs' belief that Defendants were distributing products bearing counterfeit versions of Sanrio's copyrights and trademarks and demanded that Defendants cease and desist from such conduct.

16. Defendant Nga Ting Yuen a/k/a Ada Yuen responded to the claim letter by letter dated January 13, 1997. In her responsive letter, Defendant Nga Ting Yuen a/k/a Ada Yuen acknowledged that Defendants' Suppliers had furnished Defendants with counterfeit merchandise, and represented that Defendants had ceased all distribution of the Counterfeit Merchandise. Defendant Nga Ting Yuen a/k/a Ada Yuen signed her letter with an alias, "Betty Leung," because she wished to conceal her identity from Plaintiffs.

17. Notwithstanding the foregoing, during 1998 Defendant Nga Ting Yuen a/k/a Ada Yuen and the other Defendants placed additional orders with certain of Defendants' Suppliers for additional merchandise bearing counterfeit versions of Plaintiffs' Registered Copyrights and Plaintiffs' Registered Trademarks. In placing these orders, Defendants knew that they were purchasing counterfeit goods. Defendants intended to pass such counterfeit goods off as genuine Sanrio product.

#### **CONCLUSIONS OF LAW**

18. The Court has jurisdiction over the subject matter of this civil action.
19. Sanrio Company owns valid copyrights in the designs of each of the Sanrio Characters.
20. Sanrio Company's trademarks -- including the SANRIO trademark, the names and designs of each of the Sanrio Characters, and Sanrio's Registered Trademarks -- are inherently distinctive designations of origin.
21. The Counterfeit Merchandise distributed and sold by Defendants contained counterfeit versions of Plaintiff's Registered Copyrights and Plaintiff's Registered Trademarks.
22. The acts of Defendants constitute copyright infringement, in violation of 17 U.S.C. §501.
23. The acts of Defendants constitute trademark and trade dress infringement, in violation of 15 U.S.C. §§1114, 1125(a).



24. The Court finds that Defendants' acts of trademark and copyright infringement were committed willfully.

### **MONEY JUDGMENT**

25. Pursuant to 17 U.S.C. §504(c) and 15 U.S.C. §1117(c)(2), Plaintiffs are entitled to recover against Defendants statutory damages for willful copyright and trademark infringement of up to \$100,000 per infringement.

26. However, in consideration of Defendants' limited financial means, judgment is hereby entered against Defendants, jointly and severally, for twenty-five Thousand Dollars (\$25,000.00). Interest on said amount shall run from the date of entry of this Order.

Defendants are to satisfy the foregoing money judgment by making payment either by bank check or by a check drawn on the escrow account of Defendants' counsel in this civil action.

27. Plaintiffs have waived their claim for attorneys' fees. Accordingly, each side shall bear its own attorneys' fees and costs.

### **PERMANENT INJUNCTION**

28. Pursuant to 17 U.S.C. § 502(a) and 15 U.S.C. § 1116(a), Defendants, their agents, servants, employees, and licensees, and all persons or entities in active concert or participation with any of them who receive notice of this Final Judgment on Consent, are hereby PERMANENTLY ENJOINED from:

- (a) Manufacturing, causing to be manufactured, importing, marketing, promoting, advertising, distributing, selling, and/or otherwise disposing of any product (i) bearing designs that are substantially similar to the design of any of the Sanrio Characters, and/or (ii) bearing any counterfeit, copy, or colorable imitation of any of Sanrio's Registered Trademarks, and/or (iii) containing any infringement of

**Sanrio's Registered Copyrights.**

- (b) Otherwise infringing Sanrio's Copyright Registrations;
- (c) Otherwise infringing Sanrio's Trademark Registrations;
- (d) Otherwise competing unfairly with Plaintiffs, including infringing Plaintiffs' unregistered trademarks and trade dress rights in any of Sanrio's characters.

29. Pursuant to 15 U.S.C. §1118 and 17 U.S.C. §503, Defendants are directed to deliver up for destruction all infringing products, and other matter employed in the manufacture of such infringing products.

30. Pursuant to 15 U.S.C. §1116, Defendants within thirty (30) days submit a report in writing to the Court and to Plaintiffs' counsel, sworn to by Defendants Nga Ting Yuen (also known as "Ada Yuen") and Nga Wun Yuen (also known as "Anna Yuen"), setting in forth in detail the steps Defendants have taken to comply with Paragraphs 28 and 29 above.

**APPEAL RIGHTS WAIVED**

31. The parties waive their right to appeal or otherwise contest this Final Judgment on Consent, which may be entered without further notice to any party.

**CONTINUING JURISDICTION**

32. The Court shall maintain jurisdiction over the parties and subject matter of this civil action for the purpose of interpreting and enforcing this Final Judgment on Consent.

**EXECUTION IN COUNTERPARTS**

33. This Final Judgment on Consent may be executed in any number of counterparts.

**WE CONSENT TO THE IMMEDIATE ENTRY OF THIS FINAL  
JUDGMENT ON CONSENT:**

Dated: Tokyo, Japan  
December 8, 1998

SANRIO COMPANY, LTD.

By: J. Ohanawa

Dated: San Francisco, CA  
December 9, 1998

SANRIO, INC.

By: Kate Perkins

Dated: New York, New York  
December 22, 1998

OWEN, WICKERSHAM & ERICKSON, P.C.

*Attorneys For Plaintiffs*

455 Market Street, 19th Floor

San Francisco, CA 94105

Noel Cook, Esq. and Linda Joy Kattwinkel, Esq.

(415) 882-3200

-and-

COWAN, LIEBOWITZ & LATMAN, P.C.

*Local Counsel in New York For Plaintiffs*

1133 Avenue of the Americas


New York, NY 10036-6799

(212) 790-9200

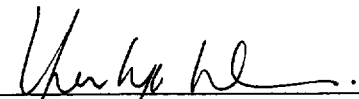
By: Joshua Paul  
Joshua Paul (JP-4079)

**WE CONSENT TO THE IMMEDIATE ENTRY OF THIS FINAL  
JUDGMENT ON CONSENT:**

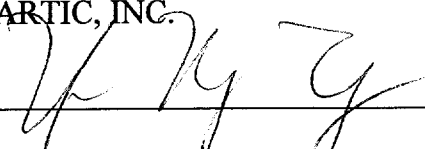
Dated: Brooklyn, New York  
December 10, 1998

  
\_\_\_\_\_  
NGA/TING YUEN a/k/a Ada Yuen


Dated: Brooklyn, New York  
December 10, 1998

  
\_\_\_\_\_  
NGA/WUN YUEN a/k/a Anna Yuen

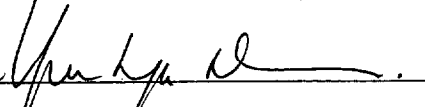
Dated: Brooklyn, New York  
December 10, 1998

ANN ARTIC, INC.  
By:   
\_\_\_\_\_

Dated: Brooklyn, New York  
December 10, 1998

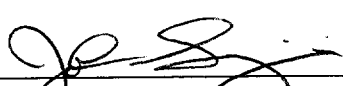
TRILLION ENTERPRISES, INC.  
By:   
\_\_\_\_\_

Dated: Brooklyn, New York  
December 10, 1998

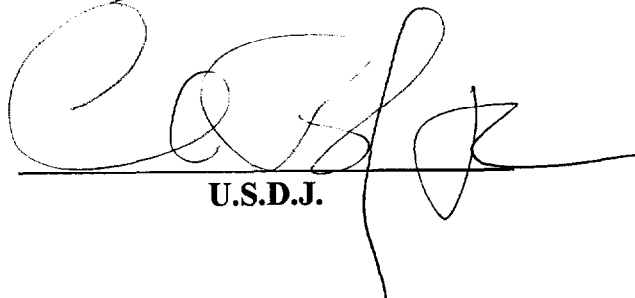
WHILMER ENTERPRISES, INC.  
By:   
\_\_\_\_\_

Dated: New York, New York  
December 10, 1998

LAW OFFICES OF RAYMOND WONG  
*Attorneys For Defendants*  
401 Broadway, Penthouse Suite  
New York, NY 10013  
(212) 431-4999

By:   
\_\_\_\_\_  
John Smargiassi (JS-3041)

1999  
SO ORDERED THIS 9 TH DAY  
OF Jan., 1998 IN BROOKLYN, NEW YORK

  
U.S.D.J.